

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOUTHWEST KEY PROGRAMS, INC.,)
)
 Plaintiff,)
)
 vs.) No. 3:15-cv-0115-H(BLM)
)
CITY OF ESCONDIDO,)
)
 Defendant.)

)

DEPOSITION OF ISMAEL AVILEZ
SAN DIEGO, CALIFORNIA
WEDNESDAY, MAY 18, 2016

Reported by:
DENISE T. JOHNSON
CSR NO. 11902
No. 12204

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 CITY OF ESCONDIDO,)
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DEPOSITION OF ISMAEL AVILEZ,
taken on behalf of the defendant at
4401 Eastgate Mall, San Diego, California,
at 10:05 a.m., on Wednesday, May 18, 2016,
before DENISE T. JOHNSON, CSR NO. 11902.

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1 throughout the day today, will you understand that to
2 mean a facility where the occupants are these
3 unaccompanied children that we're talking about?

4 A Can you repeat that? I'm sorry.

5 Q In today's discussion, if I say "a Southwest
6 Key facility" will you understand that to mean a
7 facility where the occupants are these unaccompanied
8 immigrant children or UACs?

9 A Yes.

10 Q So your current position is regional
11 executive director?

12 A Correct.

13 Q And what are your duties in that position?

14 A I oversee the programs of Pleasant Hill,
15 Northern California, three programs in El Paso, Texas
16 and in San Antonio. My job is to supervise the
17 programs, provide technical support to the program
18 directors. And one of the duties is being a liaison
19 between our corporate office and the programs
20 themselves.

21 Q Would the four program directors at those
22 four programs report directly to you?

23 A Yes. And it's five. Three in El Paso and
24 one in San Antonio.

25 Q Okay. Got it.

1 All five of those facilities are Southwest
2 Key facilities that house UACs?

3 A Yes, sir.

4 Q When did you start working at Southwest
5 Keys?

6 A Approximately 15 years ago.

7 Q What position did you start in?

8 A As a clinician.

9 Q Where was that?

10 A At Southwest Key.

11 Q I'm sorry. Was that at a particular
12 facility?

13 A What we know as the El Cajon facility.

14 Q At some point, you were the program director
15 of the El Cajon facility; correct?

16 A Correct. After a few years, I got promoted.

17 Q So you spent three years as a clinician?

18 A Yes, sir.

19 Q Then after that point, you were promoted to
20 program director?

21 A Correct.

22 Q Do you remember about what year that was?

23 A Without having the information in front of
24 me, I would only speculate.

25 Q Would that be in the early 2000s?

1 Would any of the children in your facilities
2 have American Visas while they're staying there?

3 A It's possible.

4 Q Okay. I understood, once there was an
5 American visa or any sort of, like, permanent
6 residence, the child would then be leaving the
7 facility; is that right?

8 A Right.

9 Q So if you have a child that has a visa or is
10 a U.S. citizen or otherwise has permanent residence
11 status and they did not live in your facility but
12 they wanted to, would be they be permitted to live in
13 a Southwest Key facility?

14 A No.

15 Q Are the occupants of Southwest Key
16 facilities, at least the ones you oversee, would you
17 say that they're supervised consistently throughout
18 the day?

19 A Yes.

20 Q At a one-to-eight ratio; is that right?

21 A Yes.

22 Q So one Southwest Key employee for every
23 eight children?

24 A Yes.

25 Q Are the occupants permitted to have

1 certain rules that exist that if an occupant were to
2 break, there would be negative consequences?

3 MR. TENBROECK: Objection. Vague.

4 THE WITNESS: We perform a strength-based
5 program, so negative consequences are nothing that we
6 traditionally do.

7 BY MR. FENSTERMACHER:

8 Q Is it possible for a child to lose certain
9 privileges, like a certain outing they can no longer
10 going on, based on behavioral issues?

11 A Yes.

12 Q Of your five facilities that you oversee, do
13 any of the five facilities have space for recreation
14 on-site?

15 A Do any? Is that the question?

16 Q Yes.

17 A Yes.

18 Q How many?

19 A They all have recreation space.

20 Q Would that be outdoor space in all cases?

21 A Outdoor space with the exception of Pleasant
22 Hill.

23 Q Okay. So is there also -- in all five
24 facilities, are there also off-site recreation
25 activities planned?

1 A I just remember Pleasant Hill and Franklin.

2 Q Would not have outside recreation?

3 A Yes, sir.

4 Q So at all five locations, are the occupants
5 periodically transported off-site for recreational
6 activities?

7 A Franklin and Pleasant Hill.

8 Q Not in the other three?

9 A Right.

10 Q So for Pleasant Hill and Franklin do you
11 have agreements in place with school or local parks?
12 How does the off-site recreation work?

13 A In Pleasant Hill, they use community space.
14 So there is a park that they use that's about a block
15 away from the facility. So there isn't any contracts
16 or MLUs in place from what I understand.

17 Q And what about Franklin?

18 A Franklin, from what I understand and have
19 seen is that they utilize -- I've seen them play
20 indoor soccer, but I don't know what the arrangement
21 is.

22 Q Is it true when there is off-site
23 recreation, the Southwest Key children are not
24 allowed to interact with other children that are
25 outside of the program that might be at that same

1 park?

2 A They're strongly encouraged to limit their
3 interaction, yes.

4 Q Then they would be supervised by the
5 Southwest Key employees the entire time?

6 A Correct.

7 Q There is a legal requirement for one hour of
8 large muscle recreation during the week and three
9 hours on the weekends; correct?

10 A Correct.

11 Q Does Southwest Key have a policy that allows
12 for more than four hours of recreation a week?

13 A There is no policy in place for that.

14 Q Does that typically occur?

15 A In some programs.

16 Can you rephrase the question?

17 Q Let's limit it to the five facilities that
18 you oversee.

19 A Sure.

20 Q Would you say that the children are
21 permitted to recreate for more than four hours a
22 week?

23 A It's not disallowed, and I'd imagine it's
24 not that common.

25 Q At all five of your facilities, do you have

1 a Saturday through Sunday schedule that is printed
2 out and all your employees would look at the schedule
3 so they'd know what to do at 9:00 a.m. on Monday?

4 A Yes.

5 Q And that's the same every week?

6 A In most cases, it is. But there's always
7 variances.

8 Q That would list out the time that the
9 children would wake up, eat breakfast, eat the
10 various meals, go to bed?

11 A Yes.

12 Q What happens -- let's say a child doesn't
13 want to go to bed or lights out at the prescribed
14 time, what would you do to encourage that child to go
15 to bed?

16 A We would talk to the child and try to find
17 out what's happening.

18 Q Would there ever be any sort of disciplinary
19 action?

20 A For not going to sleep? I'd imagine not.

21 Q Talking about the Escondido site, which we
22 are going to talk about much more later, it's my
23 understanding that at least with respect to the site
24 on Avenida del Diablo, the children would have been
25 driven to local parks for recreation.

1 A That would have been a feature, yes.

2 Q What about the motel sites? Would there
3 have been off-site recreation for those as well?

4 A I would have mentioned that that wouldn't be
5 the case.

6 Q Okay. Off-site would not be the case?

7 A Yes.

8 Q At the El Cajon facility when you were
9 program director, were the children -- did the
10 children go to school at a school run by the Juvenile
11 Court and Community Schools?

12 A Yes.

13 Q And is that still the case?

14 A Yes, sir.

15 Q Do you know what other groups of children
16 that Juvenile Court and Community Schools provides
17 school services to?

18 A JCCS in particular? I don't know all of
19 them.

20 Q Is it to juvenile halls?

21 A That's my understanding.

22 Q But the Southwest Key children have their
23 own classroom?

24 A They don't interact with any of the other
25 JCCS.

1 projects.

2 Q The children at Southwest Key facilities are
3 not allowed to leave the facilities on their own at
4 any time; is that right?

5 A There's layers to that. Can you be more
6 specific, I guess?

7 Q At the five facilities you oversee, would a
8 child be permitted to leave on his or her own at any
9 time?

10 A A child can leave at any time that they
11 would wish. Our focus is to supervise and encourage
12 kids to stay in our program.

13 Q Can a child open a door and just walk out?

14 A Yes.

15 Q At all locations?

16 A At all locations, they can do that.

17 Q Can the children have bikes and cars and --
18 strike that.

19 If a child leaves, are they permitted to
20 come back?

21 A There's been some cases.

22 Q So you've had a child leave, in your
23 experience?

24 A Yes.

25 Q And what did you do?

1 A There's a protocol that we have to follow.
2 So the protocol is that we contact the local law
3 enforcement. We contact the federal government, and
4 we contact licensing, and then our own internal
5 process of informing all the supervisors.

6 Q When you contact local law enforcement, what
7 are you asking them to do?

8 A We are just reporting that someone has run
9 away.

10 Q In no situation would a child leave one of
11 your facilities and you would do nothing?

12 A Correct.

13 Q You wouldn't say, "Okay. That's fine"?

14 A Correct.

15 Q To go back to my original question, a child
16 wouldn't be permitted to just go for a walk or to the
17 corner store and come back without anything
18 happening?

19 A Correct.

20 Q How many children have you had at the
21 facilities you've overseen that have ran away?

22 A That I've overseen? Can you be more
23 specific?

24 Q Well, okay. How about when you were the
25 program director at El Cajon, how many children did

1 you have run away during your time period there?

2 A That's a very broad range of time. Not too
3 many.

4 Q Would you say less than ten?

5 A No.

6 Q In the ten-plus years?

7 A Less or more? Somewhere around there.

8 Q Okay. And do you recall any of those
9 children coming back to the same El Cajon facility
10 and living there after they ran away?

11 A I don't remember the specifics, but I
12 believe there was a case.

13 Q In other cases, would a child that ran away
14 from one of your facilities be transferred to a
15 staff-secure facility?

16 A Can you repeat that? I'm sorry.

17 Q If a child ran away -- in cases where a
18 child has run away from your facilities, have they
19 ever been transferred to a staff-secure facility as a
20 result?

21 A I would imagine. I'm not sure.

22 Q Okay. Is that because staff-secure
23 facilities are essentially a higher facility than the
24 shelter/group homes like the El Cajon facility?

25 A Yes.

1 Q Would that be considered a punishment to be
2 transferred to a staff-secure facility?

3 A That would be a precaution.

4 Q In your experience, are the children afraid
5 of being transferred to a staff-secure facility?

6 A I'm not sure.

7 Q Do you think that most children prefer to
8 stay in the shelter/group home category of facilities
9 as opposed to staff-secure?

10 MR. TENBROECK: Objection. Calls for
11 speculation.

12 THE WITNESS: I'd imagine. I'm not sure.
13 BY MR. FENSTERMACHER:

14 Q How about in your other facilities other
15 than El Cajon, can you remember any specific runaway
16 incidents in the year or so that you have been
17 regional executive director?

18 MR. TENBROECK: Objection. Vague as to
19 "runaway incidents."

20 THE WITNESS: Can you repeat that, please?

21 MR. FENSTERMACHER: Can you read that back,
22 please.

23 (Question read.)

24 THE WITNESS: Two adolescents at the
25 Pleasant Hill program.

1 should be in a shelter/group home, staff-secure
2 facility?

3 A No.

4 ICE and DHS do their screening, their
5 vetting. And they refer to the department of -- the
6 division of children's services under ORR. Can I say
7 ORR? How do you recognize that? Federal government,
8 I guess?

9 Q Yeah. So from here on out, if one of us
10 says "ORR," you'll understand that to mean Office of
11 Refugee Resettlement?

12 A Yes.

13 Q Okay.

14 A So ORR -- so DHS -- ICE refers to ORR. And
15 ORR, based upon the reports and information they've
16 gotten in interviews with DHS and ICE make that
17 determination.

18 Q That determination as to what type of
19 facility the child will go into?

20 A Right.

21 Q And so Southwest Key doesn't make that
22 determination?

23 A At that point, ORR contacts the program.
24 And the program -- in most cases, they accept.

25 Q Do the children ever specifically choose

1 Southwest Key or do they have any ability to choose
2 Southwest Key over other companies that provide
3 similar services?

4 A No. It's the federal government who makes
5 the decision.

6 Q They can't go to ORR and say, "I heard
7 Southwest Key is great. I'd like to stay there"?

8 A We'd like to think so.

9 Q Can you walk me through a typical first day
10 in your experience as program director of a child
11 when they've been brought to your facility?

12 A Okay. So the adolescent comes into the
13 facility. The first thing we do -- the first rule is
14 that we greet the minor. We have to file all the
15 paperwork with DHS, ICE, or whoever it is, make sure
16 we're getting all the necessary paperwork. We meet
17 with the adolescent. We offer them water and food
18 and comfort them, letting them know that their care
19 has changed from that of ICE and DHS to the work that
20 we're doing, social service, and begin to establish a
21 rapport. That is the most important thing,
22 establishing a rapport with the adolescent, letting
23 them know what to expect in the next couple of hours
24 to days for their comfort levels.

25 We'll start processing all the forms that we

1 have. So the main thing is screening for
2 assessments. They're screening for any trafficking,
3 any suicidal issues, any mental health issues,
4 getting demographic information, providing them a
5 shower, inventorying their clothing and everything
6 they have, and providing them a new set of clothing.
7 That's usually within the first couple of hours.

8 Q When you inventory the clothing, are they
9 getting that back?

10 A They're given the option of holding onto it,
11 or us holding onto it. And we also check for
12 appropriate clothing.

13 Q So do they have to wear the Southwest
14 Key-provided clothing?

15 A They have an option of clothing.

16 Q At that point, they'd be assigned to a room
17 after the first few hours?

18 A They're assigned to a room, yes.

19 Q Typically with a roommate?

20 A Yes.

21 Q And they wouldn't have any choice in the
22 matter as far as which room they were assigned?

23 A They've never requested a room with a view
24 or anything.

25 Q As part of the screening process, does

1 facility?

2 MR. TENBROECK: Objection. Vague.

3 BY MR. FENSTERMACHER:

4 Q A hypothetical where you had a child that
5 for whatever reason it wasn't working out at your
6 facility, do you have the ability to request a
7 transfer to another facility?

8 A Yes.

9 Q That has to be approved by ORR?

10 A Yes.

11 Q Is there anything else you've ever done in
12 your role at Southwest Key with regard to moving a
13 child? Would you ever just kick them out of the
14 program entirely?

15 A No.

16 Q At any time, would a child from one of your
17 facilities go directly from your facility to a jail
18 or a prison for any reason?

19 A I've never seen that happen.

20 Q When a child is determined to be 18, what
21 happens?

22 A They would go back -- there's different
23 scenarios.

24 Q Let's say you have an age-determined adult,
25 that their immigration status case was still pending,

1 what would happen to them?

2 A I guess the easiest answer is their care and
3 custody goes back to ICE, and there's different
4 things.

5 Q What are the different things that you know
6 of?

7 A Most recently they do their own
8 reunifications.

9 Q With family members?

10 A Yes.

11 Q But to your knowledge, ICE wouldn't be
12 placing a child in some sort of a federal prison?
13 I'm sorry, not a child, an 18-year-old in a federal
14 prison?

15 A I don't know the answer to that.

16 Q Once they go back into the custody of ICE,
17 your role is over at that point?

18 A It ceases at that moment, yes.

19 Q Is my understanding correct that a child is
20 released from your facility under four different
21 categories? Again, from Southwest Key facilities,
22 there are four different categories where a child is
23 allowed to be released?

24 A Repeat that question. I'm sorry.

25 Q Correct me if I'm wrong, my understanding is

1 Q The number is 90ZU0029.

2 Do you see that?

3 A Yes, sir.

4 Q Is that the facility that you were the
5 program director of?

6 A Yes.

7 Q When you were the program director, was the
8 program subject to a Cooperative Agreement that would
9 have been substantially similar to this agreement for
10 Lemon Grove?

11 A Yes.

12 Q To your knowledge, are the cooperative
13 agreements between Southwest Key and the federal
14 government substantially similar in content for
15 various facilities?

16 A Can you repeat the question?

17 Q So the five facilities you oversee
18 currently, are all five run pursuant to Cooperative
19 Agreements?

20 A Yes.

21 Q Are those Cooperative Agreements essentially
22 the same?

23 A I would imagine so.

24 Q Would you imagine those are essentially the
25 same as the Lemon Grove or El Cajon Cooperative

1 Agreements?

2 A Yes.

3 Q If a facility had been opened in Escondido,
4 it would be run pursuant to a similar Cooperative
5 Agreement?

6 A Yes.

7 Q And the Escondido site, any site opened in
8 Escondido would have been a classified a
9 shelter/group home; is that right?

10 MR. TENBROECK: Objection. Calls for a
11 legal conclusion.

12 THE WITNESS: It would be classified as
13 shelter/group home?

14 BY MR. FENSTERMACHER:

15 Q Yes.

16 A Group home is what I understand.

17 Shelter, I believe that's the case for ORR's
18 classification, but I'm not sure.

19 Q Look at 647 in the bottom right-hand corner,
20 it's Page 9 of the document. Under D, it says,
21 "Shelter/Group Home"; correct?

22 A Huh-uh.

23 Q And that would be the classification, right,
24 for a --

25 A Yes.

1 to the Crittenton facility in Fullerton?

2 A The only cases would have been foster care,
3 if I remember. There might have been others, but I
4 don't recall.

5 Q Again, any transfer would be approved by the
6 ORR?

7 A Yes.

8 Q This is Exhibit 4. It says "Cooperative
9 Agreement" on the top there.

10 Do you see that?

11 A Yes, sir.

12 (Exhibit 4 was marked by the CSR for
13 identification and is attached hereto.)

14 BY MR. FENSTERMACHER:

15 Q And then an entry, "Southwest Key Programs,
16 Inc.," and then "90ZU0149."

17 Do you see that?

18 A Yes.

19 Q Is that the combined El Cajon/Lemon Grove
20 grant? Do you know?

21 A From what period?

22 Q If you take a look at Page 468, which is the
23 very last page, It looks like the document was signed
24 by the ORR and the CEO of Southwest Key in 2015.

25 Do you see that?

1 A Yes.

2 Q And it looks like "Effective Agreement"
3 under the duration of agreement, above that, it says,
4 "October 2014 to October 2017"?

5 A Yes.

6 Q Does this refresh your recollection at all
7 that this might be the Lemon Grove and El Cajon
8 combined? I noticed that the numbering is not listed
9 on Exhibit 3 on the very front.

10 A Right.

11 Q So you don't know what number he's referring
12 to?

13 A Right.

14 There's different grants for different use,
15 so they provide a different numbering system.

16 Q Okay.

17 A So I'm not sure is what I'm saying.

18 Q Is this format of the Cooperative Agreement,
19 Exhibit 4, is this an updated version of Exhibit 3
20 that we were looking at before?

21 A Is this an updated version?

22 Q To Exhibit 3?

23 A It appears to be, yes.

24 Q It looks like it is far less pages.

25 Do you know if it's in addition to

1 Q If you look at the first page, it looks like
2 this is the December 21st, 2015 version?

3 A Yes.

4 Q Is this the version that's in effect right
5 now for the five Southwest Key facility right now
6 that you oversee?

7 A There might have been some updates.

8 Q Generally, this governs -- is it training
9 and just employment of Southwest Key employees that
10 work at the UAC facilities?

11 A Yes.

12 Q Okay. I'll mark another document here as
13 Exhibit 10.

14 Do you recognize this document?

15 A Yes.

16 (Exhibit 10 was marked by the CSR for
17 identification and is attached hereto.)

18 BY MR. FENSTERMACHER:

19 Q It appears to say unaccompanied minors
20 federal program -- sorry. Strike that.

21 It says, "Unaccompanied Minors Federal
22 Program Youth Care Services Manual."

23 A Yes.

24 Q In the bottom right corner, it's Bates 1263.
25 Do you see that?

1 A Yes.

2 Q And what is this document?

3 A This is a general manual that's been put out
4 by the Director of Youth Care Worker Services.

5 Q Would this apply to all Southwest Key's UAC
6 facilities?

7 A Yes.

8 Q This would have governed a facility had it
9 been opened in the City of Escondido in 2014?

10 A Yes.

11 Q Again, would you consult this document as
12 part of your current duties as the regional executive
13 director?

14 A Yes.

15 Q I'll ask you to turn to Page 1270, which is
16 internal Page 4 of the document.

17 MR. TENBROECK: I'll object. It calls for
18 speculation as to whether this document would govern.

19 BY MR. FENSTERMACHER:

20 Q Under "Professional Relationships With
21 Youth," under No. 1, it says, "Staff shall not
22 initiate or maintain ongoing relationships after
23 transfer or release of the minor of the program."

24 Do you see that?

25 A Yes.

1 Q Why were ongoing relationships not
2 permitted?

3 A Boundaries. We need to maintain
4 professional boundaries. And our contract is limited
5 to the scope of services while the minors are in
6 care.

7 Q So if an employee had a personal connection
8 with a child, they wouldn't be permitted to go check
9 on them on their own personal time after they're
10 released?

11 A No.

12 Q Please turn to Page 1273, which is Page 7
13 internally in the document. If you would, just take
14 a look at the bottom. There is a heading that says,
15 "What is and not allowed for minors."

16 Do you see that?

17 A Uh-huh.

18 Q And if you flip to the next page, it looks
19 like that list continues on Page 1274?

20 A Uh-huh.

21 Q Just take a quick look at that list. Can
22 you tell me if these are the applicable rules as you
23 know them for the five facilities that you oversee?

24 A So you are asking did I review --

25 Q Yeah, the bottom of 1273, "What is and not

1 allowed for minors," and then the next page. Just
2 take a look, and tell me if these are the rules as
3 you understand them.

4 (Witness reviews document.)

5 THE WITNESS: Yes.

6 BY MR. FENSTERMACHER:

7 Q These rules apply to all the five
8 facilities?

9 A Yes.

10 Q And it would have applied to a facility in
11 Escondido had it been opened?

12 MR. TENBROECK: Objection. Calls for
13 speculation.

14 THE WITNESS: Yes.

15 BY MR. FENSTERMACHER:

16 Q And is there a supplemental list of dos and
17 don'ts that you know of outside of this document
18 provided by Southwest Key?

19 A Yes.

20 Q What is that?

21 A Each program will have their own policy
22 procedure.

23 Q Presumably, those policies and procedures
24 wouldn't be able to conflict with these rules in
25 Exhibit 10, on Bates 1273 and -74?

1 A Yes, but there's exceptions.

2 Q Turn to Page 1279, it's Page 13 internally,
3 under No. 5, it says, "Place the RED SWK bracelet and
4 explain to new intakes that the bracelet is for
5 medical clearance only and that as soon as they're
6 cleared, the bracelet will no longer be worn."

7 Do you see that?

8 A Yes.

9 Q And "medical clearance," does that mean
10 received vaccinations, or what does it mean?

11 A Yes.

12 Q Does it mean anything other than that?

13 A Vaccinations, and that they had a physical.

14 Q And then No. 6, it says, "If the new intakes
15 are body piercing, they need to take off the body
16 jewelry and be stored in the Money Bag."

17 A Yes.

18 Q And money bag is capitalized?

19 A Yes.

20 Q What is the money bag?

21 A Money bag, from my understanding -- I didn't
22 write the document -- but it's just a Ziploc bag
23 where they put all the valuables.

24 Q Is that kept by Southwest Key's staff?

25 A Yes.

1 Q For the duration of the child's stay?

2 A Yes. It is kept under safeguard.

3 Q But not in the child's possession?

4 A Correct.

5 Q Turn to Page 1348 now which is towards the
6 back. It is Page 82 internally in the document. And
7 so this page is titled "List of Inappropriate
8 Behavior and Natural Consequences."

9 Do you see that?

10 A Yes.

11 Q In the matrix below, there's several
12 columns. Does that list certain actions and the
13 consequences of those actions if the child takes
14 those actions?

15 (Witness reviews document.)

16 THE WITNESS: What was the question?

17 MR. FENSTERMACHER: Can you read the
18 question back, please.

19 (Question read.)

20 THE WITNESS: Yes.

21 BY MR. FENSTERMACHER:

22 Q There's a reference to line of sight in --

23 MR. TENBROECK: Can you show me where you
24 are looking at?

25 MR. FENSTERMACHER: Yeah, no problem.

1 BY MR. FENSTERMACHER:

2 Q Sorry. Turn to Page 1349. In the bottom
3 right corner of the matrix, under No. 3, the very
4 last bottom right corner, it says, "Line of sight
5 supervision."

6 Do you see that?

7 A Okay.

8 Q What does that mean?

9 A Line of sight supervision means that they
10 may have wandered off, or can't be visibly accounted
11 for.

12 Q Does line of sight supervision mean that as
13 a result of taking certain actions, they now have to
14 be seen at all times by a Southwest Key employee?

15 A Let me read the whole thing.

16 Q Sure.

17 (Witness reviews document.)

18 THE WITNESS: Okay. So what was the
19 question again?

20 BY MR. FENSTERMACHER:

21 Q I'm trying to understand what "line of sight
22 supervision" means.

23 A Right. So what I responded earlier, line of
24 sight, I was explaining out of line of sight.

25 Q Right.

1 A So line of sight supervision, that they have
2 to be within close proximity of a youth care worker.

3 Q The line above that, it says, "No. 2, refer
4 to treatment team."

5 What's the treatment team?

6 A The treatment team is pretty much composed
7 of the clinician case manager. It could be the
8 program director or assistant program director, and
9 even shift leaders that come together and determine
10 an adolescent's case and talk about any potential
11 interventions that may take place.

12 Q So depending on what occurred, they might
13 decide certain consequences?

14 A Yes.

15 Q The last question on this, if you take a
16 look to the column to your left of the column we were
17 just looking at which is the third column from the
18 left, first column from the right, under No. 3, it
19 says, "Staff must notify APD and PD."

20 Do you see that?

21 A Yes.

22 Q What does APD and PD stand for?

23 A Program director and assistant program
24 director.

25 Q Turning to Page 1356 under -- it's internal

1 Page 90, there's a heading, "Runaways Prevention and
2 Risk Assessment.

3 Do you see that?

4 A Yes.

5 Q This is basically the policy for preventing
6 runaways; is that correct?

7 A Yes.

8 Q The first line says, "The minor is currently
9 under final order of deportation or exclusion."

10 Do you see that?

11 A Yes.

12 Q What does "final order of deportation or
13 exclusion" mean?

14 MR. TENBROECK: Objection to the extent it
15 calls for a legal conclusion.

16 BY MR. FENSTERMACHER:

17 Q In your experience, do you understand what
18 that term means? What does that term mean to you?

19 A Our kids don't usually go through a
20 deportation process, so that's what has me confused.

21 Q Have you had kids that have been deported?

22 A I would say --

23 MR. TENBROECK: Same objection.

24 THE WITNESS: Deported? And I don't --
25 yeah, that's difficult. I don't have the legal

1 grounds to say that they were deported.

2 BY MR. FENSTERMACHER:

3 Q Some kids sometimes voluntarily return to
4 their own country; correct?

5 A Yes.

6 Q So you don't know if any kids have
7 involuntarily returned to their own country under
8 your watch?

9 A I don't recall.

10 Q If you'd take a look -- actually,
11 Exhibit 10, generally, do you know what sources it is
12 based on? For example, do you know if it is based on
13 federal rules?

14 A Repeat the question. I'm sorry.

15 Q This document Exhibit 10, Unaccompanied
16 Minors Federal Programs Youth Care Services Manual,
17 do you know if it's written based on federal rules or
18 any other sources?

19 A I would -- I didn't write the document, so
20 I'm not sure exactly what they referenced.

21 Q Do you know who would be in charge of
22 writing a document like this at Southwest Key?

23 A Marilyn Payan wrote this.

24 Q I'm sorry. Can you spell the last name?

25 A P-a-y-a-n.

1 Q Okay. And what is -- is that a female?

2 A Yes. Marilyn, like Marilyn Monroe.

3 Q What's her position at Southwest Key?

4 A She's no longer employed with Southwest Key.

5 Q What was her position?

6 A She was the Director of Youth Care Services.

7 Q Who, in your opinion, would be more
8 knowledgeable about this document at Southwest Key?

9 A The new Director of Youth Care Worker
10 Services is Diana Galliano.

11 Q One last page in this document, the very
12 last page actually, 1366, if you would, please turn
13 there. This lists a number of references.

14 Do you see that?

15 A Yes, sir.

16 Q Are you familiar with the first list there,
17 "Office of Refugee Resettlement Division of
18 Unaccompanied Children Services Policies and
19 Procedures Manual," are you familiar with that
20 document?

21 A Yes.

22 Q Would you have that in your files?

23 A Probably computer based.

24 Q And what about the "Nonviolent Crisis
25 Intervention Crisis Prevention and Intervention

1 Manual?"

2 A Yes.

3 Q And you have that somewhere in your files as
4 well?

5 A Yes.

6 Q Same question with regard to state licensing
7 manuals?

8 A Yes.

9 Q Same question with "Southwest Key Programs
10 Operation Manual for Unaccompanied Minors program"?

11 A Yes.

12 Q Same question for "Residential Child And
13 Youth Care Professional Curriculum"?

14 A I did not participate in that.

15 Q What about "Verbeal Judo"?

16 A To some extent.

17 Q Okay. Thanks. Let's put that document
18 aside. I'm going to show you a few more documents,
19 then we'll take a break.

20 I'm marking here as Exhibit 11 what is
21 titled "Operations Manual for Unaccompanied Minors
22 Programs."

23 Do you see that?

24 A Yes.

25 (Exhibit 11 was marked by the CSR for

1 identification and is attached hereto.)

2 BY MR. FENSTERMACHER:

3 Q And do you recognize that document?

4 A Yes.

5 Q And this is a document you use in your
6 current role as regional executive director?

7 A Yes.

8 Q To your knowledge, it wouldn't have been the
9 same manual governing an Escondido facility?

10 MR. TENBROECK: Objection. Calls for
11 speculation.

12 THE WITNESS: I don't recall what was
13 available at that time.

14 BY MR. FENSTERMACHER:

15 Q It might have been a previous version of
16 this document?

17 A Yes.

18 Q One question with respect to this document,
19 on Page 1192, Bates number, which is internal
20 Page 12, if you would, take a look at that.

21 A Uh-huh.

22 Q If you look under Section 1.17, the second
23 sentence says, "The driver will be counted as part of
24 ratio unless the situation requires otherwise, i.e.,
25 client is a high-run risk."

1 Do you see that.

2 A Uh-huh.

3 Q When you were program director of El Cajon,
4 did you ever have any children that you considered a
5 high-run risk?

6 A Yes.

7 Q What would make you consider a child a
8 high-run risk?

9 A They said that they wanted to run away.

10 Q Okay. And what extra precautions you would
11 you take with a high-run risk child at your
12 facilities.

13 A We'd probably do a one-on-one line of sight.

14 Q That's what we were talking about earlier?

15 A Yes.

16 Q So keeping them in sight with an employee at
17 all times?

18 A Yes.

19 Q Anything else? Anything else that you have
20 seen done in the past for a high-run risk child?

21 A No, that's pretty much it. Not that I
22 recall.

23 Q Okay. I'm marking as Exhibit 12 what is
24 entitled "Employee Guidebook."

25 Do you see that?

1 A I know there were some discussions in
2 regards to that, but we didn't really pursue it
3 because the layout, this was not the best.

4 Q Okay. I'll mark another email here as
5 Exhibit 17.

6 (Exhibit 17 was marked by the CSR for
7 identification and is attached hereto.)

8 BY MR. FENSTERMACHER:

9 Q Do you see this email from Mr. Harmon to you
10 in December 2013?

11 A Yes, sir.

12 Q Take a minute to look at this email. It
13 looks like he's discussing with you and Ms. Rodriguez
14 what has to be done to the Mt. Vernon and Quality Inn
15 to convert them to Southwest Key facilities.

16 (Witness reviews document.)

17 A Yes.

18 Q Was the plan to fence in the entire motel
19 facilities and have it open as a Southwest Key
20 facility?

21 A Yes.

22 Q Why would you need a fence around the whole
23 facility?

24 A Mt. Vernon is not the most desirable
25 community.

1 Q Okay.

2 A It's drug and prostitution. It's not the
3 best location, so that was the discussion of the
4 fence there. And Quality Inn and Howard Johnson,
5 standard practice.

6 Q Is it partially because the doors open to
7 the outside and you want to keep all the kids in the
8 facility rather than, say, wandering off?

9 A Yes.

10 Q Are the Quality Inn and Howard Johnson in
11 better neighborhoods than Mt. Vernon?

12 A It's two blocks away, but it's a world of
13 difference.

14 Q Really?

15 A Yes.

16 Q Just less criminal element around and that
17 kind of thing?

18 A I would imagine so.

19 Q There is a reference to restaurants. Do you
20 recall a plan to either lease or buy the restaurants
21 neighboring these motels?

22 A Yes, sir.

23 Q What was the plan there?

24 A Utilize it as a cafeteria place for the
25 adolescents.

1 the representative of CCLD.

2 Q CCLD?

3 A Yeah.

4 Q Do you know what the end results of the
5 communication with licensing were? For example, did
6 they ultimately relent and say they would consider
7 approving a license, or did they say they still
8 weren't sure?

9 Do you know?

10 A Yeah, after some dialogue, they said that
11 they would work with us.

12 Q But to be clear, no normal licensing
13 application was actually submitted at any time for
14 the motel sites; right?

15 A Right. You would need, what do you call it,
16 fire inspections and all these different things to
17 submit the application.

18 Q And just never got that point with respect
19 to the motel sites?

20 A Yes, sir.

21 Q I'm marking a document as Exhibit 21. This
22 document I'm looking at here under B, it refers to
23 555 North Center City Parkway. And my understanding
24 is that is one of the motel sites?

25 A Mt. Vernon.

1 (Exhibit 21 was marked by the CSR for
2 identification and is attached hereto.)

3 BY MR. FENSTERMACHER:

4 Q What is this document?

5 A It's just a general report, the possibility
6 of services here at this location.

7 Q Would this have been prepared by Southwest
8 Key?

9 A Yes.

10 Q Who was this prepared for?

11 A I'd imagine I might have prepared this
12 document and submitted it to Alexia.

13 Q So it might have been an internal report
14 prepared by you?

15 A Yes.

16 Q And under A in bold, it says -- well, under
17 the third line, it says, "SWK is proposing to provide
18 basic shelter care and other related services to
19 unaccompanied alien children, UAC, to the proposed
20 new shelter in Escondido."

21 Do you see that?

22 A Yes, sir.

23 Q So these proposed facilities in Escondido at
24 the motels, you internally refer to them as shelters?

25 A Not necessarily. I was using -- in this, I

1 STATE OF _____)
2 COUNTY OF _____) ss.
3
4

5 I, the undersigned, say that I have read the
6 foregoing deposition; and I declare, under penalty of
7 perjury under the laws of the State of California, that
8 the foregoing is a true and correct transcript of my
9 testimony contained therein.

10 EXECUTED this 23RD day of June,
11 2016, at 10th Austin, TEXAS.

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15 ISMAEL AVILEZ
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1
2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby
5 certify:

6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth;
8 that the witness in the foregoing proceedings, prior
9 to testifying, was placed under oath; that a verbatim
10 record of the proceedings was made by me using
11 machine shorthand which was thereafter transcribed
12 under my direction; further, that the foregoing is an
13 accurate transcription thereof.

14 I further certify that I am neither
15 financially interested in the action nor a relative
16 or employee of any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date
18 subscribed my name.

19
20 Dated: May 24, 2016

21
22 
23 Denise T. Johnson
24 CSR No. 11902
25